

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 01/18/2023

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SCHOEN M. LABOMBARD,

Plaintiff,

-v-

CITY OF NEW YORK et al.,

Defendants.
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22-cv-02196 (LJL)

VALENTIN ORDER

LEWIS J. LIMAN, United States District Judge:

To date, two of the individually named Defendants in this action, Brian Harrell and the unidentified warden of the Metropolitan Correctional Center (“MCC”), have not been served. *See* Dkt. No. 21. The City of New York states that it “declined to waive service for the Warden of [MCC] because plaintiff’s complaint alleges a period of abuse of spanning nearly one year, during which time a new warden was hired, and therefore the [City] cannot ascertain the individual plaintiff for whom they would make that waiver. Similarly, the [City] did not waive service for CO Harrell, as he is no longer employed with the agency.” *Id.* at 1–2.

Under *Valentin v. Dinkins*, a *pro se* litigant is entitled to assistance from the district court in identifying a defendant. 121 F.3d 72, 76 (2d Cir. 1997). At an initial pretrial conference held in this matter on January 18, 2023, the Plaintiff identified the unnamed Warden listed in his complaint as Warden Dumbar, although he was not sure of the exact spelling of that name. With this additional information and the dates of the relevant incident listed in the Complaint, the New York City Law Department, which is the attorney for and agent of the New York City Department of Correction, is ordered to ascertain the identity of and the address where this

unnamed Warden may be served. In addition, because Defendant Brian Harrell is no longer employed by the New York City Department of Correction, the New York City Law Department is directed to provide a residential address where he may be served. The New York City Law Department must provide this information to Plaintiff and the Court by February 20, 2023. Plaintiff shall serve the additional Defendants by April 24, 2023.

The Court will hold a conference in this matter on June 8, 2023 at 3pm. A stay of proceedings in this case (including of the time for Plaintiff to respond to the pending motion to dismiss) and of discovery will be in effect until that date. The Court will take the request for appointment of counsel under advisement.

SO ORDERED.

Dated: January 18, 2023
New York, New York

A handwritten signature in black ink, appearing to read 'L. Liman', is written over a horizontal line.

LEWIS J. LIMAN
United States District Judge